

Statement of John W. Keys, III
Commissioner, Bureau of Reclamation
U.S. Department of the Interior
Field Hearing on
H.R. 1870, the Fallon Rail Freight Loading Facility Transfer Act
Subcommittee on Water and Power
Committee on Resources
United States House of Representatives
Las Vegas, Nevada
December 10, 2001

I am John Keys, Commissioner of the Bureau of Reclamation, and I am here today to present the Administration=s views on H.R. 1870, the Fallon Rail Freight Loading Facility Transfer Act. This bill provides for the sale of about 6.3 acres of real property within the Newlands Project, Nevada, to the city of Fallon, Nevada. Reclamation supports conveyance of this acreage to the city of Fallon; however, four issues B credit of sale proceeds, appraisal, liability, payment to Reclamation of certain revenues B remain to be addressed. We cannot support the bill as written, but we look forward to working with the Subcommittee to resolve these issues so the work of conveying this land to the city of Fallon can proceed.

The land to be conveyed to the city of Fallon is part of the Newlands Project. It was acquired in 1920 by the United States government. The proceeds of the sale of this land to the city of Fallon should reimburse the Newlands Project. Therefore, Section 2(b) of H.R. 1870 should be amended to state that the amount paid by the city of Fallon should be credited to the Newlands Reclamation Project fund in the Treasury, in accordance with section 204(c), of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(c)).

The fair market value of the real property should be determined by an independent appraiser approved by the Commissioner of Reclamation, in accordance with regulations concerning disposal of real property. [43 CFR 402.6] H.R. 1870 should be amended to state that the appraisal under section (b) be conducted at the city of Fallon=s expense by an independent appraiser approved by the Commissioner of Reclamation.

As required by law (the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. ' 9601 et seq.) and Reclamation policy, all liability issues, including environmental liability, need to be resolved before conveyance of title to the city. The city of Fallon leased this land for some time -- its lease was terminated on January 31, 2001. During the lease period, the city of Fallon used the site for various purposes, including: storage of electrical equipment such as transformers and capacitors; storage of gasoline and diesel fuel; and construction and operation of a truck to railroad transfer structure. A Phase I Environmental Site Assessment (completed under contract by Tetra Tech Environmental Management, Inc., in accordance with ASTM Practice E 1527) revealed 13 recognized environmental

conditions that will need to be investigated and, if verified, cleaned up. Reclamation is working with the city of Fallon on a work plan to perform this investigation.

Finally, the city of Fallon must pay to Reclamation revenues it has improperly received from Premier Chemical, the company using the Fallon Rail Freight Loading Facility for freight loading purposes. Since April 3, 2001, the city of Fallon has had no legal interest in the property; nonetheless it has received revenues from Premier Chemical for its use of the property. In a recent conversation with the Reclamation manager in Carson City, the city has committed to promptly pay those revenues to Reclamation.

In summary, Reclamation supports the proposed conveyance, but cannot support the bill until certain technical modifications are made. H.R. 1870 should be amended to address the four issues listed above with special attention to the condition that the conveyance shall not occur until the Commissioner of Reclamation certifies that all liability issues relating to the property (including issues of environmental liability) and all revenue issues relating to revenue improperly retained by the city of Fallon have been resolved.

This concludes my statement. I would be glad to answer any questions.

####